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4 In Common Law

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U.S. BANKRUPTCY CT.
SO. DIST. OF CALIF.

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7 **UNITED STATES BANKRUPTCY COURT**

8 **SOUTHERN DISTRICT OF CALIFORNIA**

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13 In re:
14 Angie Reveles
15 Debtor

Case No: 09-11722-JM7
DEBTOR'S EX PARTE MOTION
TO VACATE DISMISSAL AND
TO RESET THE 341 (a) HEARING;
MEMORANDUM OF POINTS AND
AUTHORITIES
Judge: Meyers
Date:
Courtroom:
Time:

23 Angie Reveles, submit this Ex Parte Motion to Vacate the Dismissal of
24 my case and show the Court the following:

25 **FACTS**

- 26 1. This case commenced by the filing of a voluntary Chapter 7 petition on
27 August 7, 2009 and was assigned case number 09-11722 JM7.
28 2. The 341 (a) hearing was set for September 10, 2009.

1 3. The deadline for filing the Credit Counseling Certification was August 14,
2 2009. I failed to complete this Credit Counseling course due to financial
3 and medical stress. I currently have two lawsuits pending in both State and
4 Federal Court against my mortgage lender that has caused tremendous
5 Amount of stress I had to represent myself in court without legal support or
6 Guidance which in turn caused medical health problems I requested an extension
7 On the credit counseling, so I regain my emotional strength. I have been
8 Handling all the administration filings on both State and Federal cases plus I
9 filed this bankruptcy on my own because I am unable to afford an attorney.

10 4. I recently completed my Credit Counseling Certification on August 17th,
11 2009.

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 Ex parte motions are rarely justified. See, e.g. Mission Power Engineering
14 Company, v. Continental Casualty Company, 883 F Supp. 488, 490 (C.D. Cal.
15 1995). However, if the movant shows that the crisis which requires ex parte relief
16 was caused by its excusable neglect, the relief is justified. Id. In this case, FRBP
17 1007 requires that the Credit Counseling Certification be filed with the petition or
18 within 5 days after the petition date. I failed to file the document due to medical
19 stress. Since I have the Counseling Certification Completed and I am aware of the
20 consequence of not having the certificationon time. Nor is any other party affected
21 by the lateness of the certification. Thus, no party is harmed by the ex parte relief
22 requested. Moreover, it would be inequitable to deny me a discharge and fresh start
23 for mere inadvertence and forgetfulness in circumstances which were beyond my
24 total control. Finally, the 341 (a) hearing can be re-scheduled, re-noticed, and
25 conducted in due course.

26 **CONCLUSION**

27 Based on the above and the attached declarations related to inadvertence,
28 I request that the Court:

- 22 1) vacate the dismissal of the instant bankruptcy case;
- 23 2) order the 341 (a) first meeting of creditors be re-scheduled and re-noticed;
- 24 3) for such further relief as the Court deems just and proper.

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28 Respectfully submitted,

1 Date: August 24, 2009 By: Angie Reveles

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3 
4 Angie Reveles

5 Pursuant to 28 U.S.C. 1746, I, Angie Reveles, certify under the penalties of
6 Perjury that the foregoing is true and correct to the best of my ability.